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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/645,334	08/25/2000	Tadashi Hayakawa	P19929	4037
7055	7590	01/13/2005	EXAMINER	
GREENBLUM & BERNSTEIN, P.L.C.			FOSTER, ROLAND G	
1950 ROLAND CLARKE PLACE			ART UNIT	
RESTON, VA 20191			PAPER NUMBER	
			2645	

DATE MAILED: 01/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/645,334

Applicant(s)

HAYAKAWA, TADASHI

Examiner

Roland G. Foster

Art Unit

2645

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 25 August 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-20 are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

***Election/Restrictions***

A telephone call was made to William Pieprz (Reg. No. 33,630) on December 02, 2004 to request an oral election to the above restriction requirement, but did not result in an election being made.

Claims 1-20 are directed to inventions that are independent or distinct for the following reasons:

**Description of the Separate Inventions**

Restriction to one of the following inventions is required under 35 U.S.C. 121.

Invention I: claims 1, 2, 6-9, 11, 12, 14, 16, and 18, drawn to a system for detecting the distance between a mobile station and a base station using periodic signals and a phase difference.

Invention II: claims 3-5, 10, 13, 15, 17, 19, and 20, drawn to a system for detecting the distance between a mobile station and a plurality of base stations using distance based on transmit power and a processing gain of the respective measuring signal.

**Classification and Field of Search**

Invention I includes classification in class 455, subclass 67.16, measuring the change in phase of propagating waves. Note also that Invention I could be classified in numerous other

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class/subclasses corresponding to the multiple and specific features recited (e.g., see claims 6 and 14). The field of search for Invention I includes searches for systems that detect the distance between a mobile station and a base station using periodic signals and phase differences, which is not required in the field of search for Invention II.

Invention II includes classification in class 455, subclass 115.3, measuring the signal strength of a transmitter. Note also that Invention II could be classified in numerous other class/subclasses corresponding to the multiple and specific features recited (e.g., claim 10). The field of search for Invention II includes the field of search for systems that measure distance based on a transmit power and a processing gain of the respective measuring signal, which is not required in the field of search for Invention I.

#### Separate Status in the Art

A separate field of search (as discussed above) also shows a separate status in the art (MPEP § 808.02).

#### The Separate Inventions are Subcombinations

#### Usable Together Having Separate Utility

Inventions I and II are related as subcombinations disclosed as usable together in a single system for detecting position based information of a mobile terminal.

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The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, Invention I has separate utility for detecting the distance between a mobile terminal and a single base station, where the period of the test signal can be made synchronous with a base station. Invention II has separate utility for detecting the distance between a mobile terminal and a plurality of base stations, where the transmit power and processing gain of measuring signals are used. See MPEP § 806.05(d).

#### Reasons for Requiring the Restriction

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification for the reasons given above, restriction for examination purposes as indicated is proper.

Because these inventions are distinct for the reasons given above and the search required for one Invention is not required for the other Inventions for the reasons given above, restriction for examination purposes as indicated is proper.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter for the reasons given above, restriction for examination purposes as indicated is proper.

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Requirement for a Complete Response


Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even if the requirement is traversed (37 CFR 1.143).

*Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Roland Foster whose telephone number is (703) 305-1491. The examiner can normally be reached on Monday through Friday from 9:00 a.m. to 5:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan S. Tsang, can be reached on (703) 305-4895. The fax phone number for this group is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to customer service whose telephone number is (703) 306-0377.

  
Roland G. Foster  
Primary Patent Examiner  
January 5, 2005